THE HON'BLE SRI JUSTICE K.C. BHANU

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WRIT PETITION NO. 5538 OF 2005

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Dated: 22-09-2005

Between:

P. Srinivas.

……**Petitioner**

Vs.

State of Andhra Pradesh, Rep. by its

Secretary, Department of Home,

Secretariat Buildings, Hyderabad and others.

…….Respondents

O R D E R:

This writ petition is filed for declaring the action of respondent No.4 in seizing the money from the petitioner on 20.01.2005 and not depositing it either with the third respondent or in a competent criminal court and misappropriating the same as illegal, arbitrary and for a consequential direction to the respondents to forthwith return the money which was seized from the petitioner on 20.01.2005.

At the request of the learned counsel for the petitioner, the matter is posted to today. Even today, the learned counsel for the petitioner sought for adjournment. Such a request of the petitioner is turned down.

It is the case of the petitioner that on 20.01.2005 while he was proceeding from Karimnagar to Korutla on his vehicle bearing No.AP 159 5094 by carrying an amount of Rs.3,00,000/-, which was collected it from the Chit Fund Company, to be handed over to one Khalid Bin Nawaz, the police stopped the vehicle of the petitioner and seized money from him by the Station House Officer. There after, F.I.R. was booked against him and a case in Crime No.21 of 2005 was also

registered against him on the file of the Magistrate of First Class, Jagityal. As there was no reply from the fourth respondent-Station House Officer with regard to the deposit of the money either in the Court or before the third respondent-Mandal Revenue Officer-Executive Magistrate, this writ petition is filed.

Respondent Nos. 2 and 4 filed counter stating that when the petitioner was trying to escape on his motor cycle on 20.01.2005 at 10.30 a.m., the police chased him and found Rs.3,00,000/- of Indian Currency in the possession of the petitioner. There after, a case in Crime No.21 of 2005 under Section 41(a) and 102 Cr.P.C., was registered against the petitioner and he was produced before the Judicial Magistrate of First Class, Jagityal and he was released on bail. On the same day, the original F.I.R. was sent to the Executive Magistrate/Mandal Revenue Officer and reported the seizure. Since the matter relates to the offence under the provisions of Foreign Exchange & Management Act, 1999, it was referred to the Directorate of Enforcement, Government of India at Hyderabad on the same day and on receipt of information, the Directorate of Enforcement intimated the fourth respondent-S.H.O. Jagityal vide letter dated 27.01.2005 that the case property of Rs.3,00,000/- and chit seized by him will be taken over under an authorization issued by the Director of Enforcement, New Delhi under Section 37 of the Act read with 131 of the Income Tax Act and asked the fourth respondent to retain the case property with the Station House Officer. The Director of Enforcement also informed that the seized amount would be taken by them under the warrant of authorization issued by the Director of Enforcement, New Delhi. There after, the case property i.e., the original recovery panchanama and seized chit were handed over to the Department on 29.01.2005 under the acknowledgment of the receipt from the Enforcement Officer, Directorate of Enforcement, Government of India at Hyderabad. In pursuance of the authorization issued by the Directorate of Enforcement, New Delhi, the seized currency of Rs.3,00,000/- was taken over by R.C.Mathur, Chief Enforcement Officer, Directorate of Enforcement, Government of India at Hyderabad vide proceedings, dated

23.03.2005. Therefore, the fourth respondent acted in accordance with the procedure and instructions issued by the Directorate of Enforcement, Government of India, Hyderabad.

As the investigation in Crime No.21 of 2005 is in progress, the writ petition is liable to be dismissed and it is accordingly dismissed. No costs.

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K.C.BHANU J.,

Dt.22.09.2005

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